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4 Attorney for Debtors
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6 UNITED STATES BANKRUPTCY COURT
7 NORTHERN DISTRICT OF CALIFORNIA
8 SAN JOSE DIVISION
9

10 In Re:

11 GILBERT CORONA LARA,

12 and

13 CYNTHIA LOUISE LARA,

14 Debtor(s)
15
16
17

BANKRUPTCY NO. 14-53167 SLJ

CHAPTER 13

**MOTION FOR ORDER ALLOWING
SALE OF REAL PROPERTY**

Date: TBD

Time: TBD

Place: U.S Bankruptcy Court
280 S. First Street
San Jose, CA
Courtroom 3099

Judge: Stephen L. Johnson

18
19
20 The Debtors hereby move for an order allowing the sale of real property as
21 follows and for the following reasons:

22 1. The Debtors herein filed a Petition for Relief under Chapter 13 of the
23 Bankruptcy Code on July 29, 2014. Their plan was confirmed on October 23, 2014.

24 2. The Debtors have contracted to sell their 100% interest in real property
25 located at 3064 White Oak Court, Turlock, CA 95382, subject to approval of this Court,
26 subject to approval of this Court. This property is not the Debtors' residence.

27 3. The essential details of this transaction are as follows:
28

1 Sellers' Real Estate Agent: Ron Dale
 2 Sellers' Real Estate Agency: PMZ Real Estate
 3 1600 N. Carpenter Road, Suite A1
 4 Modesto, CA 95351
 (209) 499-6736

5 Buyers' Real Estate Agent: Tabitha Alves
 6 Buyers' Real Estate Agency: Century 21 MM
 7 1351 Geer Road
 8 Turlock, CA 95380
 (209) 495-0212

9 Escrow Company: Stewart Title of California, Inc.
 10 2030 W. Monte Vista Ave.
 11 Turlock, CA 95382

12 Escrow No: 379211
 13 Escrow Officer: Diane Medina
 Telephone: (209) 632-2341

14 Contract sales price: \$415,000.00

15 Distributions:

16 Wells Fargo Bank, N.A. \$370,641.18
 17 PMZ Real Estate (Seller's agent)..... \$8,300.00
 18 Century 21 M&M (Buyer's agent)..... \$8,300.00
 19 Costs of sale (Title,Taxes,Escrow,Recording, Misc)\$18,806.13

20 Subtotal Paid Directly (not to Trustee)..... \$406,047.31

21 To Chapter 13 Trustee for Administration:

22 Debtors' Attorney (estimated; upon court approval) . \$4,000.00
 23 Chapter 13 Trustee Admin Claim (on distributions
 24 of general unsecured claims, atty fees)..... \$400.00

25 Subtotal of Funds to Trustee..... \$4,400.00

26 Net proceeds to the Debtors:..... \$4,552.69

27 Is the Chapter 13 plan being paid off from the proceeds? No.
 28

1 3. The Debtors claimed an exemption of \$11,022.70 for their property on
2 Schedule C as amended on March 26, 2019.

3 4. This transaction is an arms-length transaction with no prior relationship
4 between the Debtors and the buyers. This transaction is for the full value of the property
5 and is not a short sale.

6 5. Attached is a current net sheet for the transaction detailing the expected
7 sources and distributions of funds in the transaction. The figures represented are approxi-
8 mations and can be expected to be refined up until the sale is consummated. The net
9 sheet does not show estimated Debtors' attorney's fees through the hearing on this
10 motion and a subsequent/simultaneous motion for Supplemental Attorney's Fees and
11 Costs.

12 6. The Purchase Agreement shows that escrow is scheduled to close on or
13 about April 5, 2019, but the Seller's counter does contain a contingency for court
14 approval of the sale. This may be extended by a few days.

15 WHEREFORE, Debtors request that the court order that:

16 1. The Debtors be allowed to sell their interest in the real property described
17 above.

18 2. [At the request of the Chapter 13 Trustee] Any net proceeds from the sale
19 which would be paid to the Debtors if the Debtors were not in a Chapter 13 proceeding
20 be disbursed first in accordance with the demand of the Debtors' Chapter 13 Trustee, and
21 any remainder shall be disbursed directly to the Debtors.

22 3. [At the request of the Chapter 13 Trustee] As a condition of this
23 transaction the escrow company shall comply with and satisfy the escrow demand of
24 Devin Derham-Burk, Chapter 13 Trustee. If the Chapter 13 Trustee does not intend to
25 submit a demand, she shall notify the escrow agent in writing. Per her demand, the
26 Trustee shall be the disbursing agent on Proofs of Claim relating to this case, filed with
27 the clerk's office of the bankruptcy court. The Trustee shall take her statutory fees on
28

1 receipts in connection with this transaction whether or not this transaction closes prior to
2 confirmation of the Plan.

3 4. [At the request of the Chapter 13 Trustee] Within fifteen days of the
4 closing of the sale, the escrow company shall provide the Chapter 13 Trustee with a copy
5 of the closing statement for the escrow.

6 5. Any delay of effectiveness of the order requested herein due to F.R.B.P.
7 6004 or any other similar rule be waived so that the order will be effectively immediately.

8 Respectfully submitted,
9

10 Dated: March 26, 2019

/s/ Jon G. Brooks
Jon G. Brooks
Attorney for Debtors

File No./Escrow No.: 379211
Officer/Escrow Officer: Diane MedinaStewart Title of California, Inc.
2030 W Monte Vista Ave
Turlock, CA 95382
(209) 632-2341Property Address: 3064 WHITE OAK COURT
TURLOCK, CA 95382 (STANISLAUS)
(087-016-026)Seller: GILBERT C. LARA
CYNTHIA L. LARA

Lender:

Settlement Date:
Disbursement Date:

Description	Seller		
	P.O.C.	Debit	Credit
Deposits, Credits, Debits			
Sale Price of Property			\$415,000.00
Prorations			
County Taxes 4/10/2019 to 7/1/2019 @ \$2,740.63/Six Months			\$1,241.61
Payoffs			
Payoff of First Mortgage Loan		\$370,641.18	
Principal: \$343,236.50			
Interest, 3/31/2019 to 5/1/2019 @ \$61.12/day: \$1,894.72			
Suspense Balance: (\$110.12)			
Prop Insp & Presev: \$16.50			
Unpaid NSF Charges: \$125.00			
Recon Fee: \$205.30			
Interest : \$2,500.00			
Escrow/Impounds: \$3,203.29			
Interest: \$19,569.99			
Commissions			
Real Estate Commission to PMZ Real Estate		\$8,300.00	
Real Estate Commission to Century 21 M&M and Associates		\$8,300.00	
Title Charges			
Title - Owner's Title Insurance to Stewart Title of California, Inc.		\$623.00	
Title - Document preparation to Stewart Title of California, Inc.		\$100.00	
Title - Notary fees to Stewart Title of California, Inc.		\$200.00	
Title - Settlement or closing fee to Stewart Title of California, Inc.		\$592.50	
Title - Wire Processing Fee to Stewart Title of California, Inc.		\$34.00	
Title - Courier Fee to Stewart Title of California, Inc.		\$40.00	
Government Recording and Transfer Charges			
County Deed Tax/Stamp to Stewart Title of California, Inc.		\$456.50	
Release to Stewart Title of California, Inc. \$75.00		\$75.00	
Additional Settlement Charges			
2nd Install 2018/19 of Property Tax to Stanislaus County Tax Collector		\$2,740.63	
3.33% Withholding / State of CA to Franchise Tax Board		\$13,819.50	
Natural Hazard Disclosure to TBD		\$125.00	
	P.O.C.	Debit	Credit
Subtotals	\$0.00	\$406,047.31	\$416,241.61
Due To Seller		\$10,194.30	
Totals	\$0.00	\$416,241.61	\$416,241.61

SUBSTITUTE FORM 1099 SELLER STATEMENT: The information contained herein is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction will be imposed on you if this item is required to be reported and the IRS determines that it has not been reported.

SELLER INSTRUCTIONS: If this real estate was your principal residence, file form 2119, Sale or Exchange of Principal Residence, for any gain, with your income tax return; for other transactions, complete the applicable parts of form 4797, Form 6252 and/or Schedule D (Form 1040). This transaction does not need to be reported on Form 1099-S if you sign a certification containing assurances that any capital gain from this transaction will be exempt from tax under new IRS Code Section 121. You are required by law to provide the Settlement Agent with your correct taxpayer identification number. If you do not provide the Settlement Agent with your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law.

Acknowledgement

We/I have carefully reviewed the ALTA Settlement Statement and find it to be a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction and further certify that I have received a copy of the ALTA Settlement Statement. We/I authorize Stewart Title of California, Inc. to cause the funds to be disbursed in accordance with this statement.

SELLER(S)_____
GILBERT C. LARA

By: _____

Cynthia L. Lara

SETTLEMENT COORDINATOR_____
Diane Medina